

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELEANOR TEDONE,

Plaintiff,

-against-

Docket No.:07 CIV 4111
(LMS/MDF/GAY)

Rule 26(a)(1)

H.J. HEINZ COMPANY, OWENS-ILLINOIS, INC. d/b/a
OWENS BROCKWAY GLASS CONTAINERS, and
MGM MIRAGE INC. d/b/a BORGATA HOTEL CASINO
& SPA,

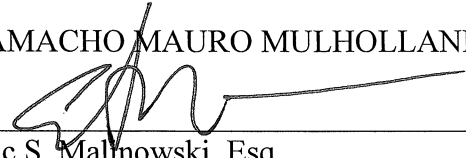
Defendants.
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In accord with Fed. R. Cive. P. 26(a)(1), defendant MARINA DISTRICT DEVELOPMENT COMPANY i/s/h/a MGM MIRAGE INC. d/b/a BORGATA HOTEL CASINO & SPA by its attorneys, CAMACHO MAURO MULHOLLAND, LLP, hereby discloses to all interested parties, the following:

1. Borgata Hotel Casino & Spa is located at One Borgata Way, Atlantic City, New Jersey, 08401.
2. Counsel of Record for MARINA DISTRICT DEVELOPMENT COMPANY i/s/h/a MGM MIRAGE INC. d/b/a BORGATA HOTEL CASINO & SPA is CAMACHO MAURO MULHOLLAND, LLP, 350 Fifth Avenue, Suite 5101, New York, New York, 10118.
3. Witnesses to the incident include; Security Officer Crossman, and Medical Unit Representative, Pamela Higbiern.
4. Attached hereto as **Exhibit A** is a copy of the Incident Report. Attached hereto as **Exhibit B** is a copy of the Customer Injury/Illness Report.

Dated: New York, New York
August 2, 2007

CAMACHO MAURO MULHOLLAND, LLP

A handwritten signature in black ink, appearing to read 'Eric S. Malinowski', is written over a horizontal line.

Eric S. Malinowski, Esq.

Attorneys for Borgata Hotel Casino & Spa

350 Fifth Avenue - Suite 5101

New York, New York 10118

(212) 947-4999

Our File No.: BORY-1777-E

To: (See Affidavit attached)

EXHIBIT "A"

Incident File Full Report

Incident File #IN20050000813

INCIDENT DATA

Date/Time Occurred: February 20, 2005 14:58
Date/Time Created: February 20, 2005 14:58
Property: Borgata
Type: Medical
Specific: Injured Customer
Category:
Details: ORIGIN AND DETAILS:

Incident Status: Closed
Created By: mpabon
Location: Hotel
Sublocation: Hotel Tower - Floor 42

On Sunday, February 20, 2005 at approximately 1400 hours, Guest Eleanor A. Tedone notified the medical unit in reference to her accidentally cutting her finger opening a ketchup bottle. Security Control dispatched Security Officer Crossman to room 4255. Tedone was complaining of her a cut on her left pinky and a superficial cut on the palm of her right hand.

ACTIONS TAKENS:

Upon arrival, Crossman observed Tedone holding her left hand stating, "I was just sitting down getting ready to eat when I opened up the ketchup bottle it busted in my hand." Tedone was escorted to the Medical Unit via foot by Officer Crossman. Medical Unit representative Pamela Higbiern treated and explained to Tedone that she needed to get stitches on her left pinky. Higbiern notified Brigantine Taxi via telephone to respond to the Talent Entrance to transport Tedone to Atlantic City Medical Center. Tedone was escorted via foot to her room to change her clothes, to Borgata Collections and to the Talent Entrance. Tedone was questioning her retrieving a copy of the Security Report, a copy of the pictures from Security, but was denied and was issued Risk Management number. (Broken Ketchup bottle was held for evidence)

NOTE:

The small ketchup bottles from Room Service are used just use once until empty and then thrown away.

NOTIFICATIONS:

D/R S/M G. McCorry
Medical Unit
Brigantine Taxi

GUEST INFORMATION:

Eleanor A. Tedone
150 Neptune Avenue
New Rochelle, NY 10805
TELE: 914-557-5029
SSN: 054-44-9228
Guest Room #4255
Borgata Red Label #1334108

Ambulance: Offered and Accepted

First Aid: Offered and Accepted

Reporting Party:

Supervisor:

Incident File Full Report

Incident File #IN20050000813

Taxi Fare: Offered and Accepted

Daily Log #: DL20050008990

Synopsis: Pamela from the Medical Unit notified Security Control of an injured guest identified as Eleanor A. Tedone in guest room 4255. Security Officer Crossman was dispatched to respond to room 4255. Guest Tedone was escorted to the Medical Unit via foot. Pabon assigned.

Remarks: Clear.

PARTICIPANT DATA

Full Name: Tedone, Eleanor A.	Company:
Primary Role: Complainant	Participant Type: Subject
Secondary Role:	Taken From Scene:
Police Contacted:	Police Contacted Result:

Reporting Party:

Supervisor:

Incident File Full Report

Incident File #IN20050000813

ACCIDENT FORM

Assigned By: mpabon

Date Assigned: February 20, 2005

Location Of Evidence: Security Evidence Storage

Lighting At Scene: Appropriate lighting noted

Room: 4255

Guest/Personal Observations

Wearing Glasses: No

Type Of Shoes: Flip Flop

Disabilities: None

Description Of Injuries: Small cut on the left pinky.

Inspection At Scene: Broken glass and ketchup on the carpet in the room 4255.

Condition Of Guest: Apparently Normal

Accident Scene Location: Guest Room 4255.

Investigation Details

Time Of Notification:

Internal Notifications: D/R S/M G. McCorry
Medical Unit
Brigantine Taxi

Medical Authorization: Yes

Police Notified: No

Guest Advised of Medical Facilities: Yes

Ambulance Notified: No

Police/Ambulance Details:

SSN/SIN: 054-44-9228

Weight: 145

Damage Description: None.

Synopsis:

Pamela from the Medical Unit notified Security Control of an injured guest identified as Eleanor A. Tedone in guest room 4255. Security Officer Crossman was dispatched to respond to room 4255. Guest Tedone was escorted to the Medical Unit via foot. Pabon assigned.

Details:

On Sunday, February 20, 2005 at approximately 1400 hours, Guest Eleanor A. Tedone notified the medical unit in reference to her accidentally cutting her finger opening a ketchup bottle. Security Control dispatched Security Officer Crossman to room 4255. Tedone was complaining of her a cut on her left pinky and a superficial cut on the palm of her right hand. Upon arrival, Crossman observed Tedone holding her left hand stating, "I was just sitting down getting ready to eat when I opened up the ketchup bottle it busted in my hand." Tedone was escorted to the Medical Unit via foot by Officer Crossman. Medical Unit representative Pamela Higbiern treated and explained to Tedone that she needed to get stitches on her left pinky. Higbiern notified Brigantine Taxi via telephone to respond to the Talent Entrance to transport Tedone to Atlantic City Medical Center. Tedone was escorted via foot to her room to change her clothes, to Borgata Collections and to the Talent Entrance. Tedone was questioning her retrieving a copy of the Security Report, a copy of the pictures from Security, but was denied and was issued Risk Management number.

Reporting Party:

Supervisor:

Reporting Party:

Supervisor:

Incident File Full Report

Incident File #IN20050000813

Reporting Party:

Supervisor:

Printed: May 31, 2007 15:30

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EXHIBIT "B"

Borgata
One Borgata Way
Atlantic City, NJ 08401

Date 2.20.05
Security Case # IN20050000813

CUSTOMER INJURY/ILLNESS REPORT

1. Type of Incident: Broken glass Injury cutting fingers Illness

2. Date and time of incident: 1:30 at PM AM/PM

3. Guest Involved:

4. Tedone Eleonor A
Last name First name Middle

F 2/24/57 054-44-9228 914 557-5029
Sex Date of Birth Social Security No. Home Telephone #

150 Neptune Ave New Rochelle NJ 10805
Home Street address City State Zip/Code

Player # _____ Host's Name _____

5. CUSTOMER'S STATUS:

Was Customer staying at the Borgata? Yes No

If "yes": Room No. 4255 Date of Arrival 2/18/05

If "No: Where was Customer staying?

Was Customer attending a convention or seminar? Yes (No)

If "Yes" which one? _____ and where? _____

6. CUSTOMER'S DESCRIPTION OF HOW INCIDENT OCCURRED: In House Dining
Went to open kitchen bottle and it broke into many pieces cutting me deeply on right hand & left pinky middle finger

7. CUSTOMER'S DESCRIPTION OF WHERE INCIDENT OCCURRED:
Suite 4255

8. CUSTOMER'S DESCRIPTION OF HIS/HER INJURIES/ILLNESS:

Borgata
One Borgata Way
Atlantic City, NJ 08401

Date 2.20.05
Security Case # 1120050000813

CUSTOMER INJURY/ILLNESS REPORT

9. MEDICAL TREATMENT :

Did Customer request medical treatment? yes no

If "No" have guest sign here: _____

Was Customer sent for other medical treatment? yes - need

stitches on left pinky
Date of Treatment _____ Treating Doctor or Medical facility _____

10. Did Customer claim to have suffered any property damage/ loss as a result of this incident? yes no

If "yes", describe damage/ loss in full: _____

11. Customer's Signature Gleanor Idone Date: 2/20/05

I have read the above and affirm to the truth and accuracy of the facts contained herein.

12. Customer's Signature _____ Date: _____

I have read the above and I refuse to sign because _____

13. Name of Person Taking Report _____ Signature _____ Employee # _____